Opinion
No. 1106-A

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

TAX DIVISION

CLARZELL GREEN, et al.,

Petitioners

v.

DISTRICT OF COLUMBIA, et al.,

Respondents

No. 2213

FILED

AUG 6 1974

Superior Court of the District of Columbia Tax Division

OPINION AND ORDER

This matter is now before the Court pursuant to Petitioners' Motion to Compel Respondents to Correct and Reissue Real Property Tax Bills for Fiscal Year 1974, or in the Alternative for Refunds. The motion, over numerous days of hearing, with testimony and documentation, has been opposed by Respondents. Both parties have submitted memoranda.

The underlying case was earlier litigated during a comprehensive five day trial, following substantial pre-trial motions and discovery. Briefs were filed in that case.

At the immediate conclusion of that trial on June 29, 1973, this Court entered an Order providing, in part:

> "1. That the Respondents and any and all of their agents, servants or employees be and hereby are enjoined from using, for purpose of taxation, unequal levels of assessment (debasement factor) of estimated market value in determining the assessment, valuation or equalization of single family residential real properties, including residential garages and vacant land zoned residential.
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> "2. That the Respondents and any and all of their agents, servants or employees, be and they hereby are enjoined from placing any assessment valuation or equalization on single family residential real property (including residential garages and vacant land zoned residential) which has been determined using a level of assessment (debasement factor) other than 55 % of estimated market

value of such property, until and unless a level of assessment (debasement factor) has been established after full compliance with the provisions of the District of Columbia Administrative Procedure Act.

"3. That the Mayor-Commissioner be, and he hereby is, enjoined from approving any assessment, valuation or equalization of single family residential real property (including residential garages and vacant land zoned residential) for purposes of taxation, which has been determined using any level of real property tax assessment (debasement factor) other than 55% of estimated market value of such property, until and unless a level of assessment (debasement factor) has been established after full compliance with the provisions of the District of Columbia Administrative Procedure Act."

An opinion and Order of 60 pages followed on July 17, 1973 which included and supplemented the above orders.1/

The Trial Court's order was approved by the District of Columbia Court of Appeals on October 9, 1973. 2/

Since the judgment of the Court of Appeals, Respondents have not established any level of assessment for real property for single family residential property other than 55 percent of estimated market value. 3/

The evidence from this hearing demonstrated that real property tax bills for Fiscal Year 1974 were mailed out to single family residential real property taxpayers commencing November 12, 1973. Of the 108,776 properties assessed as such, 41,915 (or approximately 38.5% of the

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1/ Wash. L. Rep., Vol 101, No.172, p. 1737; No. 173, p. 1749; No. 174, p. 1761 (1973).

2/ Green, et al. v. District of Columbia, et al., D.C.App., 310 A. 2d 848 (1973).

3/ Supp. No. 3, Vol. 20, No. 8 of the District of Columbia Register (Oct. 29, 1973) p. 235; Corporation Counsel Memorandum of Nov.6, 1973 to Respondent Back; Jan. 11, 1974 Communication from Respondent Back to the Mayor Commissioner; Jan. 19, 1974 statement of Respondent Washington; all of the above referring to a "uniform assessment level of 55 percent."

total such properties) were assessed at exactly 55 % of estimated market value for Fiscal Year 1974. The 61.5% remaining bills (66,861 properties) were at a level of assessment other than 55 % of estimated market value: 37,073 in excess of 55%; 29,788 at less than 55% of market value. 4/

The dollar difference by which the assessment exceeded 55% was $13,486.18. The dollar difference by which the total was less than 55% was $9,431.14.

Some variances from a 55% level of assessment in the tax produced were minimal; there were also significant variances resulting ultimately in more taxes than the taxpayer should have been billed. According to the testimony of Joseph Arnold, 5/ the method used by Respondents "to reduce the debasement factor from 60 to 55 percent was to apply the factor of .91667 6/ to the adjusted street rate, rounding to the nearest penny (.01) and multiplying that street rate (now at 55%) by land area, then adding to that the building value (at 60%, multiplied by .91667) to get total assessed value." 7/

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4 / Petitioners' Exhibits 9-12, inclusive, prepared at the Court's request in computer printout sheets by Respondent, District of Columbia, listing all single family residential properties, detailing, by four separate methods, the computations from 60% of assessed valuation to 55% of assessed valuation. See also Respondent's Memorandum in Opposition to Petitioner's Motion of Jan. 30, 1974, at p. 2.

5/ Department of Finance and Revenue, Office of Programs and Data Systems

6/ The decimal equivalent of 55/60 is .91667.

7/ Respondents' Memorandum on Petitioners' Motion, at p. 2.

Respondents claim that the method they used was reasonable and proper and in full compliance with the Court's Order; that this method was the only method compatible with constraints in their present computor system; that there was no other method that was not prohibitive in cost or time or extremely deleterious to the assessment program; and that the variances which resulted to taxpayers were small and insignificant.

Petitioners' claim that the method used by Respondents did not take advantage of the much more accurate capacity potential of their computer system; that there were multiple ways the resultant errors could have been avoided, including some methods (e.g., rounding the adjusted rate accurate to five places to the right of the decimal) which would have required only minimal changes in the computer programs of the District of Columbia; and that correction of the errors at this time is essential to avoid the compounding of these errors in subsequent years.

Petitioners have shown that since the main change in assessment is done by a computation that multiplies the market value on the old assessment by a factor (which represents the change in market place) any error is multiplied by that factor.

It must be remembered that in the majority of cases, at the present time, the computer process determines the valuations and it is only where the computer print-out is not the new valuation (as when there is an actual appraisal and the appraiser's judgment is utilized) that a new value will be reached for both land and improvements.

It is important to note that the Trial Court specifically inquired during the original trial (Green, et al.) as to whether the Respondents would in fact be able to

precisely comply with a Court Order requiring them to use a level of assessment of 55% instead of 60%. That Respondents could not do so exactly was never mentioned to the Trial Court, and additionally, (counsel concede), was never mentioned to the appellate court. In fact, the Respondents represented exactly the contrary.

It is preposterous to this Court to believe that the District of Columbia Department of Finance and Revenue can accurately and precisely program their computers to assess properties at 60% of estimated market value but cannot program those same computers to assess property at 55% of estimated market value. Be this as it may, Petitioners have clearly demonstrated that Respondents could have, within their present computer system, produced results closer to exactly 55% than were produced.

The Court finds that the real significance of the variances from 55% of estimated market value which resulted from the method used by Respondents is that the method they used altered both the actual market value and assessed value of the property of 66,861 taxpayers (37,073 taxpayers who paid more than they should have and 29,788 taxpayers who paid less than they should have) in the permanent records of the Department of Finance and Revenue. As a result, if not corrected at this time, the errors caused by the method used by the District of Columbia will be compounded in subsequent years, some taxpayers receiving a continuing benefit of those errors and others, also District of Columbia taxpayers, continually being penalized by them.

The aim of all taxing authorities, be they federal, state, or municipal, must be fair, uniform, and accurate tax assessments and billings. While it is apparent that mathema-

tical exactitude cannot always be obtained, the government must use that degree of accuracy (e.g., in the present case rounding to five decimal places or more in lieu of the two places used) 8/ which is promptly and reasonably available and adaptable to the finance system to assure that there will not be an annual reoccurance and perpetration of an erroneous tax assessment policy which singly and over a number of years prejudices both the government and the taxpayer, and, unquestionably, violates the policy of tax uniformity amony taxpayers.

In the instant case, there is no reason why the District cannot print the adjusted rate to at least five places to the right of the decimal which would further permit Respondents to store that figure in its computer file. The accuracy of that five place figure should be enough to prevent the perpetrating of that error in future assessments.

In the future it would be of great assistance to the taxpayers if the taxing authorities included in the reassessment and tax notices the full market value of each property and a statement of the debasement factor used. In this way, each individual taxpayer would, with full knowledge of the basis on which he is being taxed, be able to do his own review of his tax situation and determine whether he wished to accept the taxing government's conclusion or contest it to a final decision by the appropriate authorities.

The Court is loathe to minutely instruct the Respondents as to the precise method of implementing the Court's Order of June 29, 1973. The Court's ultimate goal

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8/ Joseph Arnold testified that he could carry the matter to two million places.

of highest accuracy might be achieved by methods not yet detailed to the Court. Nevertheless, it suffices for reasonable and fair accuracy to expect the following, minimally: multiply the street rate by the Respondents' own factor of .91667 and retain that result as a five place figure after the decimal. That five place figure is then multiplied by the number of square feet and this result, rounded to the nearest dollar, gives the land calculation. The assessment of improvements is then multiplied by the factor of .91667 and this result is rounded to the nearest dollar. The two results are added: land and improvements to give the correct answer as to how to adjust from 60% to 55%.

From the testimony before the Court this method appears to be the most compatible to the Respondents' existing system and would require only minimal alterations to create the appropriate result. While this detailed method is not perfect, it comes the nearest to the absolute without distortion of the Respondents' entire computer program as it relates to real property assessments.

It is therefore, by the Court the 6th day of August, 1974,

ORDERED, that the Respondents:

(1) Correct the tax roll to show the assessment of each lot or parcel of single-family residential real property (including residential garages and vacant land zoned residential real property (including residential garages and vacant land zoned residential) at 55% of estimated market value of such property as such estimated market value was determined prior to June 29, 1973, in accordance with the above stated minimal standard of accuracy.

(2) Issue appropriate refunds to all taxpayers who have already paid Fiscal Year 1974 taxes on single-family residential real property (including residential garages and vacant land zoned residential) based on tax bills mailed prior to this Order in accordance with the above stated minimal standard of accuracy.

9 (3) Issue supplemental tax bills to all owners of single-family residential real property (including residential garages and vacant land zoned residential) who received tax bills for Fiscal Year 1974 showing an assessment at less than 55% of estimated market value in accordance with the above stated standard.

(4) The above orders are to be carried out within ninety (90) days from date of this Opinion and Order.

Joyce Hens Green
Judge

Copies to Counsel